

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI**

THE STATES OF MISSOURI, ARIZONA, )  
ARKANSAS, INDIANA, KANSAS, )  
MONTANA, NEBRASKA, OHIO, )  
OKLAHOMA, SOUTH CAROLINA, )  
TENNESSEE and UTAH, )  
Plaintiffs, )

v. )

JOSEPH R. BIDEN, JR., in his official )  
capacity as the President of the United )  
States of America; and various United )  
States Government officials, )  
Defendants. )

Case No. 4:21-CV-00287  
Judge Audrey G. Fleissig

**PROPOSED AMICUS CURIAE BRIEF  
OF THE  
COMMITTEE FOR A CONSTRUCTIVE TOMORROW  
IN SUPPORT OF PLANITIFFS**

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### INTEREST OF AMICUS CURIAE

The Committee For A Constructive Tomorrow (hereinafter “CFACT”) respectfully submits this proposed Brief as *Amicus Curiae* in support of Plaintiffs in *The States of Missouri, et al. v. Joseph R. Biden, Jr. et al.*, No. 4:21-CV-00287. The case focuses on the separation of state and federal powers and the speculative, inadequate, arbitrary and capricious analysis by the Interagency Working Group (hereinafter “Working Group” or “IWG”) and its affiliated Federal Government agencies in setting “social costs” of greenhouse gases, to justify enormously expanding the federal regulatory reach, forcing the attempted substitution of “renewable” energy for hydrocarbon or “fossil fuel” energy, and intruding into virtually every aspect of Americans’ lives, health and living standards.

CFACT is a Washington, DC-based nonprofit public policy and educational organization. Its mission is to promote environmental protection, economic development, human health, and more productive lives for its members, supporters, and other people throughout the United States and world, through modern science and technology that are grounded in complete, careful, expert analysis of often competing needs, costs, benefits, interests and political agendas.

CFACT’s interest as *Amicus* in this case stems from the Working Group’s disregard for procedural due process requirements in not properly allowing opportunities to comment, and from the Group’s failure to consider major costs and benefits that any competent, rigorous and complete analysis would necessarily have included. These failures are particularly important because the Group is developing highly influential scientific and economic assessments that are being used to support, justify and drive major federal actions that will have especially far-reaching and costly impacts on employment, the economy, the health and well-being of every citizen of the United States, and the quality and diversity of the natural and human environment.



## SUMMARY OF ARGUMENT

Fossil fuels make our lives richer, freer, more productive and manifestly safer. They are central to our economy and way of life. Recent “greenouts” in California and Texas, and the East Coast gasoline scarcity this past spring provided stark reminders of those fossil fuel benefits and the importance of reliable “dispatchable” energy, as opposed to intermittent energy sources.

A valid, complete, rigorous analysis of the “social costs” of greenhouse gases (GHGs) must not only address the asserted American and global *costs* of U.S. hydrocarbon use and resulting GHG emissions. It must also examine the *benefits* of those fuels and emissions to the United States and world – and the numerous, significant *costs* of attempting to *replace* existing U.S. fossil fuel energy systems with wind, solar, battery and biofuel power, and installing a vastly expanded and enhanced electricity transmission system. Yet somehow IWG analysts and regulators managed to ignore these benefits and costs throughout their analysis.

The combustion of carbon-based energy indisputably produces, *inter alia*, carbon dioxide (CO<sub>2</sub>) and other greenhouse gases that have *some influence* on Earth’s climate. Claims that they are causing “dangerous” temperature increases, more extreme weather, melting ice caps and other climate “chaos” are contested by many reputable scientists, however.<sup>1</sup> Forcibly eliminating abundant, reliable, affordable fossil fuels would not only cause the loss of numerous American jobs, companies, industries and other benefits. It would force Americans to discard expensive power generation and industrial, business and household equipment that still have years of

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<sup>1</sup> See e.g., R Carter (geologist), *Climate: The Counter Consensus*, London: Stacey International (2010); J Christy (atmospheric scientist), Testimony before U.S. House e Committee on Science, Space & Technology, March 29, 2017, [https://science.house.gov/imo/media/doc/Christy%20Testimony\\_1.pdf?1](https://science.house.gov/imo/media/doc/Christy%20Testimony_1.pdf?1); S Koonin (U.S. Energy Undersecretary of Science for President Obama), *Unsettled: What climate science tells us, what it doesn't, and why it matters*, Dallas: BenBella Books (2021); R Spencer (climatologist), *The Great Global Warming Blunder: How Mother Nature fooled the world's top climate scientists*, New York: Encounter Books (2010).

productive life, and attempt to replace them prematurely with costly electricity-based equipment that can operate with intermittent, unreliable, weather-dependent wind and solar power.

Still more costs would be imposed by compelling the installation of potentially hundreds of thousands of onshore and offshore wind turbines, billions of solar panels and battery modules, and thousands of miles of new underwater and onshore electricity transmission lines. Those facilities would cumulatively impact millions of acres of scenic vistas and forest, grassland, desert and marine wildlife habitat; harm, displace, starve or kill millions of birds, bats, mammals, reptiles, amphibians, sea creatures and beneficial insects; and impair human health.

All these new industrial facilities would require enormous quantities of iron, copper, cobalt, lithium, aluminum, rare earth elements, plastics, concrete and other materials. That would necessitate greatly expanded mining, processing and manufacturing operations, many of them involving fossil fuels, air and water pollution, forced labor, more habitat and wildlife destruction, and human diseases, injuries and deaths. These activities would take place primarily in foreign countries, because the United States increasingly restricts mining, has insufficient metal and mineral deposits to meet all these raw material needs, and will be able to support only limited manufacturing in a renewable energy economy. Reuters just affirmed this foreign dependency:

U.S. President Joe Biden will rely on ally countries to supply the bulk of the metals needed to build electric vehicles and focus on processing them domestically into battery parts, part of a strategy designed to placate environmentalists, two administration officials with direct knowledge told Reuters.

The plans will be a blow to U.S. miners who had hoped Biden would rely primarily on domestically sourced metals, as his campaign had signaled last autumn, to help fulfill his ambitions for a less carbon-intensive economy.<sup>2</sup>

These realities raise critical, complex national security and environmental justice issues.

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<sup>2</sup> E. Scheyder and T. Hunnicutt, “Exclusive: Biden looks abroad for electric vehicle metals, in blow to U.S. miners,” Reuters, May 25, 2021, <https://www.reuters.com/business/energy/biden-looks-abroad-electric-vehicle-metals-blow-us-miners-2021-05-25/>.

Meanwhile, even in a hypothetical future in which U.S. fossil fuel reliance is forcibly decreased or eliminated, many other countries would not stop using fossil fuels. Indeed, their oil, gas and coal use would likely increase, to improve their people's living standards, and to operate the new and expanded mines, processing plants and factories to meet U.S. "renewable" energy needs. Global greenhouse gas emissions will thus *increase*, rather than decline. That means all the foregoing U.S. and global costs would bring no climate benefits, even accepting an assumption that greenhouse gases are the primary factor in modern climate change.

A proper analysis would consider and balance all these scenarios, costs and benefits. It would not present all costs and no detectable or obvious benefits to the quality of the natural and human environment from fossil fuel use and associated emissions. It would not exaggerate claimed *global* benefits from eliminating fossil fuels in the United States. Nor would it narrowly view, minimize or ignore the costs and risks associated with forcibly eliminating existing U.S. energy delivery systems and attempting to replace them with new wind, solar and battery electricity systems. Yet the IWG makes all these and many other errors, with apparently full deliberation.

Anything less than careful, complete analysis of all these costs, risks and benefits is arbitrary, capricious, and contrary to the Administrative Procedure Act (APA), [5 U.S.C. §552 et seq.](#), and National Environmental Policy Act (NEPA), [42 U.S.C. § 4321 et seq.](#)

## ARGUMENT

**I. The Interagency Working Group has improperly chosen to focus only on alleged U.S. and global *costs* of U.S. carbon dioxide and other greenhouse gas emissions from America's fossil fuel use. A competent, rigorous, complete analysis must also assess the U.S. and global *benefits* of those fuels and carbon dioxide emissions.**

By Executive Order (EO 13990), "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," the Biden Administration has tasked a reconstituted Interagency Working Group (IWG) with examining the alleged *global costs* of

emissions by the *United States* of carbon dioxide and other greenhouse gases, by no later than January 2022. [86 Fed. Reg. 7037; [Docket No. 1-1](#)] On February 26, 2021, the Working Group released its interim values for the social costs of carbon, methane and nitrous oxide.<sup>3</sup>

As Plaintiffs note in their complaint before this Court, by this act the President has “arrogated to the Executive Branch the unilateral power to dictate specific values for the ‘social costs’ of greenhouse gases in virtually every regulatory program administered by the federal government. He has done so without any statutory or constitutional authority.” [Complaint at 1]

Additionally, however, any competent, rigorous, complete analysis must also examine the *U.S. and global benefits* of fossil fuel use and CO<sub>2</sub>/GHG emissions. The IWG did not do so in preparing its interim values, and has demonstrated that it is not doing so now for its final report.

Those benefits include the industries, jobs, living standards, revenues, health and other social-economic-environmental improvements that oil, natural gas and coal bring to families and communities throughout the United States and world. Wealthier is indisputably healthier, and richer societies are increasingly able to afford and ensure cleaner air and water. That the United States and developed world were largely built with fossil fuels and still rely on oil, natural gas and coal for 80% or more of their energy further underscores this reality.<sup>4</sup>

Moreover, fossil fuel benefits also include enhanced plant growth and drought-resistance due to increasing levels of *atmospheric carbon dioxide*, resulting in record corn, wheat, soy and other

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<sup>3</sup> See Interagency Working Group on Social Cost of Greenhouse Gases, United States Government, Technical Support Document: Social Cost of Carbon, Methane and Nitrous Oxide, Interim Estimates Under Executive Order 13990, February 26, 2021 [[Docket No. 1-2](#)].

<sup>4</sup> See e.g., I Goklany, *The Improving State of the World: Why we’re living longer, healthier, more comfortable lives on a cleaner planet*, Washington, DC: Cato Institute (2007); U.S. Energy Information Administration, Monthly Energy Review, April 2018, [https://www.e-education.psu.edu/ebf301/sites/www.e-education.psu.edu/ebf301/files/Revised\\_folder/Lesson\\_01/2017%20energy\\_consumption\\_by\\_source\\_large.jpg](https://www.e-education.psu.edu/ebf301/sites/www.e-education.psu.edu/ebf301/files/Revised_folder/Lesson_01/2017%20energy_consumption_by_source_large.jpg); and R Rapier, Primary Global Energy Consumption 2019 (by source), Realgy Energy Services, [https://d2fu5nmldghv48.cloudfront.net/realgyenergyservices.com/public\\_html/wp-content/uploads/2020/07/01164553/Primary-Energy-Consumption.png](https://d2fu5nmldghv48.cloudfront.net/realgyenergyservices.com/public_html/wp-content/uploads/2020/07/01164553/Primary-Energy-Consumption.png)

crop yields in recent years, improved forest and grassland productivity, the “greening” of desert and other areas, and enriched freshwater and marine habitats throughout the world.

Carbon dioxide can properly be called the “miracle molecule” or the “gas of life,” because even small amounts enable plants to grow and release oxygen, thereby making almost all life on Earth possible. Whether the CO<sub>2</sub> comes from fossil fuels or from volcanoes, subsea vents, warming seawater during El Niño events, baking bread, or humans and animals exhaling the gas, more CO<sub>2</sub> in the atmosphere enables plants to grow better and faster, even under adverse conditions like limited water, hotter air temperatures, and insect and other infestations.<sup>5</sup>

These enhanced rates of photosynthesis and biomass production occur for virtually every kind of plant, every part of the plant (roots, stems, branches, flowers and leaves), in every ecosystem, on every continent. To cite just a few of many hundreds of available examples:

Raising CO<sub>2</sub> levels in greenhouses and “forest enrichment facilities” (from a recent ambient level of 350 parts per million to 700 ppm) increased the growth rates and productivity of legumes, corn, grains, rice, sugarcane, cotton, and pine and aspen trees by 28% to 80% or more.<sup>6</sup> In the “real world” outside greenhouses, trees in Minnesota, Wisconsin, Spain and elsewhere grew better in recent years compared to 70-120 years ago, as planetary temperatures rose a half degree and atmospheric CO<sub>2</sub> levels increased from about 300 ppm in 1900 to 375 ppm in 2003

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<sup>5</sup> See C Idso, R Carter and S Singer, *Climate Change Reconsidered: 2011 Interim Report of the Nongovernmental Panel on Climate Change*, Chicago: Heartland Institute (2011), especially Chapter 7 (pages 197-315), “Terrestrial Plants and Soils,” citing more than 650 scientific articles and studies. <https://www.heartland.org/template-assets/documents/CCR/CCR-Interim/Full%20Interim%20Report.pdf> See also C Idso, R Carter and S Singer, *Climate Change Reconsidered II: Biological Impacts*, Report of the Nongovernmental Panel on Climate Change, Chicago: Heartland Institute (2014).

<sup>6</sup> *Climate Change Reconsidered: 2011 Interim Report*, pp 199, 204-205, 232, 244, 265-269.

(versus 400 ppm or 0.04% of the atmosphere today).<sup>7</sup> Alpine plant species have also proliferated, expanding biodiversity and making mountain ecosystems more productive.<sup>8</sup>

Higher crop yields ensure that more people have greater quantities of nutritious food, thereby reducing hunger and improving lives, and doing so from less land and with less water. That is due to better crop varieties and improved agricultural, fertilizing and irrigation technologies, but also to warmer temperatures, longer growing seasons *and more atmospheric CO<sub>2</sub>*.<sup>9</sup>

Higher atmospheric CO<sub>2</sub> levels also allow plants to absorb more carbon dioxide through smaller stomata (pores in plant tissue), thereby avoiding water loss through those openings. This has contributed to greatly improved plant growth and water use efficiency, and to a pronounced “greening” of desert areas in the Sahara and other arid regions during the past several decades.<sup>10</sup>

These cumulative U.S. and global cropland and natural habitat *benefits* are certainly worth trillions of dollars per year. The IWG must assign reasonable dollar values to them – and apply those economic (and social) *benefits* against any alleged “social costs” of carbon dioxide.

Conversely, feeding the world while also replacing oil and natural gas fuels and petrochemical feed stocks with corn, soybean, canola, palm and other biofuels would necessitate planting biofuel crops on millions of additional acres that are currently food crop, fallow, scenic

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<sup>7</sup> *Ibid.* at 206-210.

<sup>8</sup> *Ibid.* at 249-250, 254-255, 261.

<sup>9</sup> *Ibid.* at 231-232, 265-273. See also M Bhardwaj, “India expected to harvest record wheat, rice crops this year,” Reuters, February 24, 2021, <https://www.reuters.com/world/india/india-expected-harvest-record-wheat-rice-crops-this-year-2021-02-24/>

<sup>10</sup> *Ibid.* at 208, 220-222, 269, 275-287; P. Gosselin, “Looking at NASA’s Vegetation Index data, the news is good: The globe has greened 10% so far this century,” February 24, 2021, <https://notrickszone.com/2021/02/24/nasa-vegetation-index-globe-continues-rapid-greening-trend-sahara-alone-shrinks-700000-sq-km/>. See also CO<sub>2</sub> Science, Biospheric Productivity (Global: The Recent Past), <http://www.co2science.org/subject/b/bioprodutivity.php>

or wildlife habitat lands, That would impose trillions of dollars in additional *costs* from the loss of those non-biofuel lands. The IWG must address this matter, as well.

Its failure to consider or address any of these issues and impacts runs afoul of the Administrative Procedure Act and National Environmental Policy Act.

**II. Attempting to replace America’s hydrocarbon-based energy systems with wind, solar and battery technologies, and expand and upgrade home, neighborhood, state and national electrical systems, would cost trillions of dollars and result in major environmental, wildlife, economic, scenic and human health damage from installing new facilities across the United States and along its ocean (and Great Lakes) coasts.**

Wind and sunlight are clean, green, renewable and sustainable. *Harnessing them* to meet humanity’s growing energy needs is *not*, for doing so requires nonrenewable raw materials.

A full, accurate and scientific analysis of the costs of eliminating one form of powering our economy and sustaining our lives, livelihoods and living standards with America’s existing carbon-based energy systems – and attempting to replace it with wind turbines, solar panels, backup battery modules, additional transmission lines and other “renewable” energy technologies – must calculate the many *costs* of these federal actions. Those costs include damage to the environment, scenic values, wildlife and their habitats, and human health. They also include the risks, uncertainties and necessary redundancies associated with trying to replace “dispatchable” (regular, reliable) energy with intermittent, weather-dependent sources combined with energy storage, all on a massive scale.

The Biden Administration has proposed 80% hydrocarbon-free electricity generation by 2030 and 100% by 2035, followed by fossil fuel elimination (“net-zero emissions”) in all sectors nationwide by 2050.<sup>11</sup> This involves replacing coal and natural gas for generating electricity;

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<sup>11</sup> A Restuccia and T Puko, “At Earth Day Climate Summit, Biden pushes for sharp cut to greenhouse-gas emissions,” *Wall Street Journal*, April 22, 2021, <https://www.wsj.com/articles/biden-to-urge-climate-action-at-world-leaders-summit-11619085614?mod=article>; V Volcovici and N Groom, “White House

gasoline and diesel for powering vehicles; natural gas for smelting and manufacturing; and natural gas for heating, cooking and water heating in homes, hospitals, schools and businesses.

Together, this would mean the nation's annual electricity requirement would skyrocket from about 2.7 billion megawatt-hours (the fossil fuel portion of the 2018 U.S. total) to almost 7.5 *billion MWh* by 2050, to replace all the fossil fuels that now power the many components of the energy-dependent U.S. economy.<sup>12</sup> Substantial additional generation would be required to constantly recharge backup batteries for windless, sunless days, and to provide adequate redundancy to safeguard society against cyberattacks and blackouts.

In the absence of new nuclear and hydroelectric power plants, generating this much electricity would potentially require tens of thousands of 800-foot-tall 14-megawatt (14-MW) offshore wind turbines, hundreds of thousands (perhaps even millions) of smaller onshore turbines, and/or billions of photovoltaic solar panels.<sup>13</sup> Backing up sufficient nationwide electricity for even a week of windless, sunless days would involve well over a billion half-ton battery modules akin to those in Tesla cars, to ensure 24/7 power. Connecting all these facilities to electricity-dependent communities, industrial facilities and data centers would require thousands of miles of new underwater and onshore transmission lines.<sup>14</sup>

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backs 2030 milestone on path to net zero grid," Reuters, April 26, 2021, <https://www.reuters.com/business/sustainable-business/exclusive-white-house-pushing-80-clean-us-power-grid-by-2030-2021-04-26/>

<sup>12</sup> See P Driessen, *Protecting the Environment from the Green New Deal*, Chicago: Heartland Institute (2019), pp 7-8, <https://www.heartland.org/template-assets/documents/publications/EnviHarmsPB.pdf> (Leaving nuclear out of this electricity analysis and focusing on coal and natural gas generation leaves a nearly 2.7 billion MWh for today's fossil fuel electricity, plus 2.0 billion MWh for electric vehicles, plus more than 2.7 billion MWh to replace home-business-industry gas use, for a total of approximately 7.5 billion MWh needed per year by 2050 – plus additional generation for batteries and redundancy.)

<sup>13</sup> *Ibid.*, pp 6-14. See also GE Renewable Energy, "Haliade-X offshore wind turbine: The world's most powerful offshore turbine," <https://www.ge.com/renewableenergy/wind-energy/offshore-wind/haliade-x-offshore-turbine>

<sup>14</sup> P Driessen, *Protecting the Environment*, pp 17, 21.



These high numbers reflect the fact that wind and solar generate electricity only 25-50% of the year in the best U.S. locations (33% on average nationwide);<sup>15</sup> turbines and panels must not be located in ecologically sensitive areas; each turbine needs dozens of acres of open space around it; and the more wind and solar electricity the nation needs, the more it must put turbines and panels in lower quality areas, where they might generate power only 15-20% of the year. Hundreds of millions of acres would be impacted, an enormous portion of the continental USA.

The “social cost” of these intended replacements involves both the widespread effects of *not having today’s reliable energy*, and the impacts of trying to *replace* that energy. For example:

President Biden has called for installing 30,000 MW of wind power off America’s Atlantic, Gulf of Mexico and Pacific coasts by 2030.<sup>16</sup> Even if they operated at full capacity 24/7, all this electricity would not meet peak summer electricity needs for New York State,<sup>17</sup> much less the USA. But having this theoretical electricity capacity would require 2,100 14-MW turbines.

Moreover, in a hypothetical United States without hydrocarbon energy, still perfectly good fossil fuel generating and industrial systems, home furnaces, stoves and water heaters, gasoline and diesel vehicles, and other equipment that have not reached the end of their economically useful lives would have to be thrown out under government diktat and replaced with electrical versions. Home and business, community, state and national electrical systems would have to be expanded and upgraded to handle the added power demands; most would likely have to be converted from 110 volts to 220 volts or to higher level systems to fast-charge electric vehicles.

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<sup>15</sup> G Edwards, “How much energy does a wind turbine produce?” May 17, 2021, <https://www.semprius.com/how-much-power-does-a-wind-turbine-produce/>

<sup>16</sup> K Tamborrino and E Wolff, “White House pushes new offshore wind power expansion,” Politico, March 29, 2021, <https://www.politico.com/news/2021/03/29/biden-administration-offshore-wind-power-expansion-478372>

<sup>17</sup> See D Wojick, “New York cannot buy its way out of coming blackouts,” Townhall, December 30, 2020, <https://townhall.com/columnists/davidwojick/2020/12/30/new-york-cant-buy-its-way-out-of-coming-blackouts-n2582278>

During the recent East Coast gasoline shortages and disruptions, Secretary of Energy Jennifer Granholm asserted, “If you drive an electric car, this would not be affecting you.”<sup>18</sup> She was clearly not considering how electricity “greenouts” like those in California and Texas would make it impossible to charge electric cars and trucks, whether one drives such vehicles by choice or because of government fiat.<sup>19</sup> This illustrates the blinkered approach exhibited in the IWG’s interim “social cost” values and in the approach the Group utilizes throughout its analysis.

Even if wind and solar facilities were sited to avoid highly sensitive areas, they would still disrupt or destroy scenic areas, croplands and wildlife habitats; kill numerous birds, bats and other protected wildlife; and interfere with military and civilian air and sea radar and navigation. Vibration noise from offshore turbines could disrupt whale and dolphin navigation and communication. Light flicker and infrasound would interfere with human sleep and health.<sup>20</sup>

The Interagency Working Group must address these issues, calculate reasonable dollar values for these expenses and adverse impacts – and apply those costs to offset any benefits the Group might attribute to eliminating fossil fuels and GHG emissions. It has thus far failed to do so, in violation of the Administrative Procedure Act and National Environmental Policy Act.

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<sup>18</sup> See e.g., <https://www.youtube.com/watch?v=hPsTEaXbNY4>, May 11, 2021.

<sup>19</sup> See, e.g., *Wall Street Journal*, “The California and Texas Greenouts: Renewables show again that they aren’t reliable to power the grid,” June 16, 2021 (editorial), <https://www.wsj.com/articles/the-california-and-texas-greenouts-11623883231> (“Greenouts” are blackouts attributable to over-reliance on “green” energy that is often not available on very hot or very cold days, when electricity is needed most.)

<sup>20</sup> See e.g., J Wiegand, “Hiding Avian Mortality: Where ‘green’ is red (Part I: Altamont Pass),” MasterResource blog, September 4, 2013, <https://www.masterresource.org/cuisinarts-of-the-air/hiding-avian-mortality-altamont-pass/>; A Montford, “Green Killing Machines: The impact of renewable energy on wildlife and nature,” Global Warming Policy Foundation Report 36, 2019, <https://www.thegwpcf.org/content/uploads/2019/07/Green-Killing-Machines-1.pdf>; \_Wind Energy: The Facts, “Impacts on Marine Mammals and Sea Birds: Impacts on marine mammals” (undated), <https://www.wind-energy-the-facts.org/impacts-on-marine-mammals-and-sea-birds.html>; H Parker, “The Secret, Silent Wind-Power Peril,” MasterResource blog, February 8, 2017, <https://www.masterresource.org/windpower-health-effects/secret-silent-wind-power-peril-1/>; U.S. Department of Energy, “Wind Turbine Radar Interference Mitigation,” March 2019, [https://www.energy.gov/sites/prod/files/2019/04/f61/WTRM\\_Factsheet\\_Final\\_2019.pdf](https://www.energy.gov/sites/prod/files/2019/04/f61/WTRM_Factsheet_Final_2019.pdf)

**III. Attempting to transform America to wind, solar, battery and other “renewable” energy technologies and associated transmission systems would require metals, plastics, concrete and other materials on scales unprecedented in human history. Mining, processing and refining ores and other raw materials – and operating factories to turn them into “green” energy equipment – would result in major environmental, wildlife, scenic and human health damage throughout the world.**

A recent International Energy Agency (IEA) report notes that manufacturing fossil fuel replacement technologies would require billions of tons of (non-renewable) iron, copper, aluminum, cobalt, lithium, rare earth elements, plastics, cement and other raw materials. That would mean mining, crushing, processing, refining and transporting tens of billions of tons of ores from thousands of mines and quarries, using enormous gasoline and diesel equipment.<sup>21</sup> As noted above, these activities will likely not occur in the United States, as the Biden Administration intends to intentionally “export” or outsource them to foreign countries.

These fuel-intensive activities often employ hazardous chemicals and release toxic pollutants, necessitating strong pollution control laws. They require large volumes of water, often in the world’s most water-deprived regions. They cause acid mine drainage, create small mountains of waste rock, and often result in vast “pit lakes” of toxic chemicals from refining the ores. Foreign laws governing these operations are often well below U.S. standards and expectations.<sup>22</sup>

The IEA report points out that wind, solar, battery and electric vehicle technologies require far more metals and minerals than their fossil fuel counterparts. For example, an onshore wind turbine requires nine times more materials per megawatt than a modern gas-fired generating

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<sup>21</sup> International Energy Agency, *The Role of Critical Minerals in Clean Energy Transitions: A World Energy Outlook Special Report*, May 2021, <https://iea.blob.core.windows.net/assets/24d5dfbb-a77a-4647-abcc-667867207f74/TheRoleofCriticalMineralsinCleanEnergyTransitions.pdf>; M Mills, “Biden’s not-so-clean energy transition,” *Wall Street Journal*, May 12, 2021, <https://www.wsj.com/articles/bidens-not-so-clean-energy-transition-11620752282>

<sup>22</sup> International Energy Agency, *op. cit.*, pp 210-224; M Mills, *op. cit.* See also P Driessen, *How the Green New Deal’s Renewable Energy Mining Would Harm Humans and the Environment*, Chicago: Heartland Institute, (2020), <https://www.heartland.org/template-assets/documents/publications/PBdriessenmining2Apr20.pdf>

plant; much larger offshore turbines need 14 times more materials. Taken together, says the IEA, global renewable energy raw material requirements greatly exceed the entire world's current and foreseeable mining and processing capabilities.<sup>23</sup>

Wind turbines utilize 3.6 tons of copper per megawatt of rated capacity.<sup>24</sup> Just the initial 30,000-MW offshore wind program would require nearly 110,000 tons of copper (in addition to millions of tons of other materials). At an average of 0.44% copper in all types of copper ore deposits around the world today, this means building just those initial 2,100 offshore turbines would require mining, crushing and processing some 25,000,000 tons of copper ore, after removing some 40,000,000 tons of overburden (overlying rock) to reach the ore bodies.<sup>25</sup>

Add in the myriad materials for solar panels, additional wind turbines, backup battery systems, subsea electrical cables, onshore transmission lines, electric vehicles, electric heating systems and other technologies – to run the entire USA – and the “green energy transformation” would almost assuredly require tens of billions of tons of copper, other metals and minerals, trillions of tons of ores, trillions of tons of overburden, and thousands of mines, processing plants and factories. On a global scale, impacts from this transformation would be truly astronomical.

These impacts represent many tens of trillions of dollars in U.S. and global costs that must also be factored into any robust and comprehensive cost-benefit analysis, with reasonable dollar amounts assigned to every impact – and applied against any supposed “social costs of carbon and

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<sup>23</sup> International Energy Agency, *op. cit.*, pp 5-6, 11-14, 26, 132-156.

<sup>24</sup> N Mamula and A Bridges, *Groundbreaking! America's New Quest for Mineral independence*, San Jose, CA: Penned Source Production (2018), pp. 207-209.

<sup>25</sup> G Ashcroft, “Porphyry Deposits: The world's largest source of copper,” May 28, 2014 (updated April 22, 2021). <https://www.GeologyForInvestors.com/porphyry-largest-source-copper/>; B Berger, R Ayuso *et al.*, Preliminary Model of Porphyry Copper Deposits, U.S. Geological Survey Open-File Report 2008–1321 (2008), pp. 21-22, [https://pubs.usgs.gov/of/2008/1321/pdf/OF081321\\_508.pdf](https://pubs.usgs.gov/of/2008/1321/pdf/OF081321_508.pdf)

other greenhouse gases.” The IWG’s apparently deliberate failure to consider these matters violates the Administrative Procedure Act and National Environmental Policy Act.

**IV. Because the United States increasingly restricts mining, most of the raw materials needed for the renewable energy transformation will be mined and processed overseas, predominantly by Chinese companies and under minimal environmental and workplace safety rules. This raises serious national security, pollution, human rights and environmental justice issues that must be addressed in any IWG analysis.**

The United States permits little access to or mining of metals and minerals essential for the energy transformation the IWG seeks to justify.<sup>26</sup> Instead it effectively, and unjustly, demands that most of them be extracted overseas, often by Chinese companies – which also control the processing of many minerals mined in Africa, Asia and Latin America, and the manufacturing of increasing percentages of US-bound wind turbines, solar panels and batteries. Additional key players include the Democratic Republic of Congo, Australia, Canada and Russia. China is by far the dominant supply chain power. The United States plays only a very minor role.<sup>27</sup>

Ironically, in the course of this rapid transformation, the United States could quickly go from being a net exporter of oil, natural gas and refined products in recent years – to being *almost totally dependent* on often unfriendly foreign sources for the materials required for its energy, economy, manufacturing, living standards, health, communication, transportation and defense.

This raises major national security issues, amid the virtual impossibility of the world being able to mine and process sufficient raw materials for the United States alone, much less for a *global* “green energy” transformation. In addition, China and many other foreign countries do

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<sup>26</sup> N Mamula, “Federal Land Withdrawals: Endangering the Nation: The consequences of locking up American mineral wealth,” Capital Research Center, January 2020, <https://capitalresearch.org/article/federal-land-withdrawals-part-1>

<sup>27</sup> International Energy Agency, *op. cit.*, pp 11-13, 46, 132-156; N Mamula and A Bridges, *Groundbreaking!* pp 41-68; B Marlow, “Green evangelicals are handing the global mining industry to China & Russia,” *The Daily Telegraph*, June 7, 2021, <https://www.telegraph.co.uk/business/2021/06/07/green-evangelicals-handing-global-mining-industry-china/>

not apply U.S. laws and standards for environmental protection, pollution control, mined land reclamation, workplace safety, child labor, fair wages and related issues that are at the forefront of government and activist concerns, though rarely in the green energy context. But as the United States and developed world further restrict resources production, these are the countries where mining will take place, and where the worst environmental and human impacts will occur.<sup>28</sup>

Some 40,000 children as young as four already toil with their parents in Democratic Republic of Congo mines, for a few dollars a day, under constant threat of cave-ins and exposure to toxic and radioactive mud, dust and water – just to meet *today’s* cobalt needs, which would increase sharply under a Green New Deal transformation. The cobalt ore is sent to China for processing in plants with equally abominable safety and pollution conditions, which have been linked to alarming cancer, blood disease and other health problems. Calls for “responsible sourcing” of these critical materials are rarely heard, and the IWG has not even mentioned these concerns.<sup>29</sup>

An enormous toxic dump for effluents from rare earth mining and processing in Inner Mongolia has destroyed agriculture and created serious health issues for workers and residents.

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<sup>28</sup> See e.g., M Shellenberger, “If solar panels are so clean, why do they produce so much toxic waste?,” *Forbes*, May 23, 2018, <https://www.forbes.com/sites/michaelshellenberger/2018/05/23/if-solar-panels-areso-clean-why-do-they-produce-so-much-toxic-waste/#7c92b6bc121c>; A Maxmen, “Poverty plus a poisonous plant blamed for paralysis in rural Africa,” National Public Radio, February 23, 2017, <https://www.npr.org/sections/thesalt/2017/02/23/515819034/poverty-plus-a-poisonous-plant-blamed-for-paralysis-in-rural-Africa>

<sup>29</sup> See e.g., K Dickerson, “The world’s lust for new technology is creating a ‘Hell on Earth’ in Inner Mongolia,” *Business Insider*, May 12, 2015, <https://www.businessinsider.com/the-worlds-tech-waste-lake-inmongolia-2015-5>; B Jones, “Child miners aged four living a Hell on Earth so YOU can drive an electric car,” *The Daily Mail*, August 5, 2017. <https://www.dailymail.co.uk/news/article-4764208/Child-miners-aged-four-living-hell-Earth.html>; J Conrad, Cobalt Sourcing: Child labor and corporate responsibility, *Washington Lawyer*, May/June 2021, pp. 22-25; S Parry and E Douglas, “In China, the true cost of Britain’s clean, green wind power experiment: Pollution on a disastrous scale,” *The Daily Mail*, January 26, 2011, <https://www.dailymail.co.uk/home/moslive/article-1350811/In-China-true-cost-Britains-clean-green-wind-power-experimentPollution-disastrous-scale.htm>

China also uses Uighur slave labor to build solar panels for sale to the United States. These issues generate occasional news stories but likewise have not garnered IWG attention.<sup>30</sup>

Where countries have increased their reliance on wind and solar power, electricity prices have tended to rise sharply. This has severely impacted small businesses and low- and fixed-income families, which would also be least able to endure repeated blackouts or afford the high cost of replacing their fossil fuel appliances, vehicles and other equipment with all-electric versions.<sup>31</sup>

The IWG has raised “climate and environmental justice” as “social cost of carbon” issues – but has yet to do so in the context of rising energy prices and foreign sourcing of critical “energy transition minerals” for “green” technologies. Under the APA and NEPA, it must to do so, and must assign reasonable costs to these U.S. and overseas mining, processing, manufacturing, equipment replacement, environmental justice and human rights matters.

**V. China, India and other major emerging economies are rapidly increasing their carbon-based fuel use and greenhouse gas emissions, to modernize, improve their people’s living standards, and provide U.S. renewable energy materials and technologies. Even if the United States completely eliminated its fossil fuel use and GHG emissions, there would be no global emission or climate benefits from doing so, amid the widespread human, economic and ecological harms the effort would cause.**

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<sup>30</sup> See e.g., K Dickerson, *op. cit.*; *Investment Watch*, “John Kerry admits America will buy solar panels made in China by slave labor,” May 13, 2021, <https://www.investmentwatchblog.com/john-kerry-admits-america-will-buy-solar-panels-made-in-china-by-slave-labor/>; J Ambrose and J Jolly, “UK solar projects using panels from firms linked to Xinjiang forced labour: Investigation finds up to 40% of UK solar farms were built using panels from leading Chinese companies,” *The Guardian*, April 25, 2021, <https://www.theguardian.com/environment/2021/apr/23/revealed-uk-solar-projects-using-panels-from-firms-linked-to-xinjiang-forced-labour>

<sup>31</sup> See e.g., J Tannenbaum, “Wind and solar reliance would black out the US: If Biden goes to undependable renewables without nuclear, expect exploding power costs, rationing and blackouts” (Part 5 of 5), *Asia Times*, March 8, 2021, <https://asiatimes.com/2021/03/wind-and-solar-reliance-would-black-out-the-us/>; J Siegel, “Critics warn the president’s goals will create reliability problems and increase consumer energy bills,” *Washington Examiner*, May 11, 2021, pp. 26-29; S Poulter, Campaigners demand urgent cuts to power bill after number of winter deaths among the elderly rise by 40%, *The Daily Mail*, 11/22/17, <https://www.dailymail.co.uk/news/article-5109511/Calls-cut-power-bills-winter-deaths-rise-40.html?utm>



Even total U.S. fossil fuel replacement would not offset other nations' fossil fuel use, and associated emissions resulting from vastly expanding energy needs, to: (a) meet those nations' own economic development goals; and (b) conduct the mining, processing and manufacturing needed to support the proposed "transition" to wind, solar, battery and other "renewable" energy.

While the United States significantly *reduced* its carbon dioxide emissions by replacing coal-fired power capacity with natural gas, Asian and other countries *opened* hundreds of new coal-fired power plants, in addition to those they already had in operation. China alone put 38.4 gigawatts (38,400 MW) of coal plants into operation in 2020; its annual GHG emissions in 2019 *exceeded those of all developed countries combined*. Beijing is also building, planning or financing more than 300 coal plants in Turkey, Vietnam, Indonesia, Egypt and other nations.<sup>32</sup>

African countries are planning to build more than 1,250 new coal and gas-fired generating units by 2030, many financed by Chinese banks and built by Chinese companies. Coal still supplies more than 70% of annual electricity consumption in India, the world's second-largest coal user, and the second-largest overall fossil fuel user in Asia. India and Russia plan to mine much more coal and build hundreds more new coal-fired generating units in the coming years.<sup>33</sup>

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<sup>32</sup> See e.g., U.S. Energy Information Administration, U.S. *Energy-Related Carbon Dioxide Emissions: 2019*, September 2020, [https://www.eia.gov/environment/emissions/carbon/pdf/2019\\_co2analysis.pdf](https://www.eia.gov/environment/emissions/carbon/pdf/2019_co2analysis.pdf); Reuters, "Study: China's new coal power plant capacity in 2020 more than 3 times rest of world's," February 3, 2021, <https://www.voanews.com/science-health/study-chinas-new-coal-power-plant-capacity-2020-more-3-times-rest-worlds>; S Inskeep, A Westerman, "Why is China placing a global bet on coal?" National Public Radio, April 29, 2019, <https://www.npr.org/2019/04/29/716347646/why-is-china-placing-a-global-bet-on-coal>; D Watkins, R Lai, K Bradsher, "China Rules: How China became a superpower," *New York Times*, November 18, 2018, <https://www.nytimes.com/interactive/2018/11/18/world/asia/world-built-by-china.html>

<sup>33</sup> See e.g., Global Warming Policy Forum and Power Engineering International, "African nations planning 1250 new coal and gas power plants, new study reveals," January 13, 2021, <https://www.thegwpf.com/african-nations-planning-1250-new-coal-and-gas-power-plants-new-study-reveals/>; V Jayaraj, "Despite COP26 pressure, Asia and Africa remain committed to coal," Global Warming Policy Forum, June 6, 2021, <https://www.thegwpf.com/despite-cop26-pressure-asia-and-africa-remain-committed-to-coal/>; P Cleppe, "Boris shouldn't write off fossil fuels just yet," *The Spectator*, June 20, 2021. <https://www.spectator.co.uk/article/boris-shouldn-t-write-off-fossil-fuels-just-yet?mc>; *Wall*



An American “energy transformation” would simply *transfer* emission sources and other ecological impacts from the United States to these and other countries. Worldwide fossil fuel use and GHG and pollution emissions would actually *increase* significantly. Even assuming greenhouse gases are now the primary factor controlling Earth’s climate, there would thus be no climate or extreme weather benefits even from completely eliminating fossil fuel use in the United States – and attempting to replace that energy with wind, solar, battery and biofuel power – at enormous economic, environmental, social and human cost to the United States and world.

The IWG has not recognized, considered or accounted for any of these repercussions; nor does it appear to have any plans for addressing these U.S. and global realities. It simply seeks to help justify ending all of America’s fossil fuel use, regardless of the consequences.

Any valid, accurate, complete and proper IWG analysis must address and monetize these realities in determining “social costs of carbon and greenhouse gases” and calculating any supposed benefits from eliminating the 80% of U.S. energy that currently comes from fossil fuels. The Biden Administration and IWG’s failure to do this clearly violates the Administrative Procedure Act and National Environmental Policy Act.

## CONCLUSION

The concept of “Social Cost of Greenhouse Gases” must be far broader than merely the costs of emissions. It must include the *benefits*, as well as the costs, of *using* the fossil fuels that produce the emissions. For carbon dioxide, the emissions are central to our way of life – and to plant, animal and human life on Earth. The benefits of CO<sub>2</sub> greatly outweigh any conceivable costs, while eliminating fossil fuel combustion and emissions would impose enormous costs.

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*Street Journal*, “America’s Energy Gift to Dictators: China, Russia and Iran will exploit the U.S. retreat on fossil fuels” (lead editorial), June 10, 2021,  
[https://www.wsj.com/articles/americas-energy-gift-to-dictators-11623279139?mod=opinion\\_lead\\_pos1](https://www.wsj.com/articles/americas-energy-gift-to-dictators-11623279139?mod=opinion_lead_pos1)

To properly serve the United States and its people, and to comply with the Administrative Procedure Act and National Environmental Policy Act, the Interagency Working Group’s “Social Costs of Greenhouse Gases” analysis must be accurate, rigorous and thorough. While hundreds more examples could be presented here, this *Amicus* brief makes it clear that the IWG analysis is the product of a process that improperly and illegally begins with the desired policy outcome and then works backward to justify that outcome.

The IWG analysis is tendentiously and improperly designed to convey a false impression that fossil fuels are dirty, unnecessary, and the cause of alleged climate disasters. Its deliberately narrow and capricious approach likewise suggests that wind and sunshine can be harnessed with relatively small numbers of wind turbines, solar panels and battery modules. This invalid approach also suggests that those replacement energy technologies can be manufactured and installed through a policy that is best described as Materials Acquisition for Global Industrial Change – or MAGIC. As this *Amicus* brief makes clear, this could not be further from the truth.

There is no MAGIC or free lunch. The IWG’s actions represent a textbook example of arbitrary, capricious and deceptive decisions and analyses by government regulators. They are a clear violation of sound public policy, U.S. constitutional principles of separation of powers, and the Administrative Procedure Act and National Environmental Policy Act.

The Working Group’s analysis is designed and intended to justify and drive one of the most far-reaching and impactful federal actions in U.S. history: the forcible elimination of fossil fuel energy and its attempted replacement with wind, solar and battery technologies, via mining, processing and manufacturing by or in foreign countries that are often unfriendly to America. The IWG’s highly influential actions will result in widespread and costly impacts on the U.S.

economy and employment, the health and well-being of every American citizen, and the quality and diversity of the U.S. and global natural and human environment.

At the very least, the IWG must expand its analysis and address every one of these issues, costs and foregone benefits – fully, properly and honestly – as detailed in Plaintiffs’ complaint and this Amicus brief. Only in that way can the American people fully assess the true costs of any proposed “green energy transformation.”

CFACT asks this Court to compel the Interagency Working Group to do so, and to grant Plaintiffs’ motion for a preliminary injunction.

Respectfully submitted,

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### **Certificate of Service**

I hereby certify that I served a true and correct copy of the foregoing upon all counsel of record by filing the same through the Court’s CM/ECF system.

/s/Matthew D. Hardin

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